

Article - State Government

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§17–109.

(a) This section applies:

(1) only to an office for which an appointment to fill a vacancy is required to be made with the advice and consent of the Senate; and

(2) regardless of whether a salary or any other compensation is provided to the holder of the office.

(b) An individual who was appointed to fill a vacancy in an office during the recess of the Senate or who was nominated to fill a vacancy in an office during a regular session of the Senate may not be nominated for the same office at the same session, unless requested by the Senate, be appointed to the same office during the recess of the Senate, or continue to serve in the office or be designated to serve in an acting capacity for the same office after the adjournment of the regular session of the Senate at which the nomination was made, if:

(1) the Governor withdrew the nomination during the regular session of the Senate at which the nomination was made;

(2) the Senate failed to act on the nomination before the Senate adjourned the regular session of the Senate at which the nomination was made and the individual was not reappointed to the office by the Governor;

(3) the individual withdrew the individual's nomination;

(4) the Governor fails to make the nomination on the first day of the regular session of the Senate if required under Article II, § 11 of the Maryland Constitution; or

(5) the individual is not confirmed by the Senate and is designated by the Governor to fill the vacancy in an acting capacity.

(c) An individual who is prohibited from continuing to serve in an office under subsection (b) of this section may not:

(1) carry out the responsibilities of the office in any capacity; or

(2) make representations that the individual:

(i) serves in the office in any capacity; or

(ii) is legally authorized to carry out the responsibilities of the office in any capacity.

(d) If the holder is in an office on a public body for which no salary is provided:

(1) any votes cast by an individual who, at the time the vote is conducted by the public body, is prohibited from continuing to serve in the office under subsection (b) of this section may not be counted; and

(2) the presence of an individual described in item (1) of this subsection may not be counted for purposes of a quorum.

(e) (1) Subject to paragraph (2) of this subsection, an individual who is designated to serve in an acting capacity to fill a vacancy in an office for which an appointment is required to be made with the advice and consent of the Senate may not serve in the office for more than 275 days after the date the designation was made.

(2) An individual may not continue to serve in an acting capacity after the adjournment of a regular session of the Senate if:

(i) the individual was serving in the acting capacity before the start of the regular session; and

(ii) the individual was not nominated to fill the vacancy in the office during that regular session.

(f) An individual who violates this section may not receive any compensation, including a salary or reimbursement for expenses out of the State budget, related to serving in the office or carrying out the responsibilities of the office.

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